



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Confirmation No.: 8677

Ville RUUTU, *et al.*

Group Art Unit: 3662

Serial No. 10/501,954

Examiner: LIU, HARRY K

Filed: August 10, 2004

Atty. Docket No.: 059643.00477

For: PROVISION OF LOCATION INFORMATION

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

October 10, 2008

Sir:

The Office Action dated August 19, 2008 has been received and carefully noted. The following remarks are submitted as a full and complete response thereto.

The Office Action of August 19, 2008 presented a restriction requirement, requiring election between one of the following two (2) inventions.

- Invention I, recited in claims 1-15, drawn to a method (of determining an estimate mobile location and further calculating a more accurate location with the help of assistance data from a communication system).
- Invention II, recited in claims 16-34, drawn to a system/apparatus (for determining the mobile location based on timing difference between time of transmission of assistance data and time reception of said data).

Applicants submit that the restriction requirement is not timely and must be withdrawn. Referring to §811 of the MPEP, 37 CFR §1.142(a), second sentence, recites that

...a restriction requirement "will normally be made before any action upon the merits; however, it may be made at any time before final action **." This means the examiner should make a proper requirement as early as possible in the prosecution, in the first action if possible, otherwise, as soon as the need for a proper requirement develops. Before making a restriction requirement after the first action on the merits, the examiner will consider whether there will be a serious burden if restriction is not required.

As is clear from the prosecution history of the instant application, four prior Office Actions have been issued. Although claims 20-34 were added in the prior Response, claims 16 -19 were unchanged. Applicants further note that that claims 16-19 in alleged Invention 2 were previously considered and rejected in view of identical prior art as used against alleged Invention 1 of claims 1-15 . The numerous prior Office Actions clearly demonstrated that the examination process was handled without serious burden. Therefore, the implied belief that serious burden is now present in examining each of the pending claims is without merit. This restriction requirement is improper and must be withdrawn.

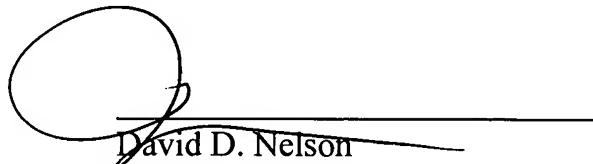
Furthermore, Applicants note that new claims 20-34, although patentably distinct, correspond closely to pending claims 1-15 in alleged invention 1. Therefore, Applicant urge that consideration and examination of claims 16-34 of alleged Invention 2 raise no additional burdens to the Examiner and should therefore be considered concurrently with the claims in alleged Invention 1. Therefore, this restriction requirement is improper and must be withdrawn on this separate basis.

Applicants provisionally elect, with traverse, to prosecute the subject matter of Invention I, recited in claims 1-15, drawn to a method (of determining an estimate mobile location and further calculating a more accurate location with the help of assistance data from a communication system). Applicants therefore respectfully request timely consideration on the merits.

Applicants reserve the right to file a divisional application on the non-elected claims at any point prior to the termination of the proceedings in the subject application.

In the event this paper is not being timely filed, the applicants respectfully petition for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,



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Enclosure: Petition for Extension of Time (1 Month)
Check No. 019808